

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Johnson/CBG

Mailed: August 26, 2002

Opposition No. 91124959

ALIEN TECHNOLOGY CORPORATION

v.

NANOVATION TECHNOLOGIES, INC.
AND L3 OPTICS, INC., JOINED
AS PARTY DEFENDANT

Cindy B. Greenbaum, Attorney:

On March 11, 2002, the Board approved applicant's consented request to extend until March 28, 2002 its time to file an answer to the notice of opposition.

On April 22, 2002, opposer filed a motion for default judgment for applicant's failure to file an answer. Shortly thereafter, on May 3, 2002, applicant's prior counsel of record filed a request for withdrawal of representation.

Prior counsel indicated in its request that the involved application had been assigned to L3 Optics, Inc. pursuant to a bankruptcy proceeding under Chapter VII of the Bankruptcy Statute. Prior counsel also indicated that L3 Optics obtained new counsel, namely, Howard Gitten of Edwards & Angell, LLP,

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and, therefore, prior counsel was no longer authorized to prosecute this application.

After a search conducted via Internet, the Board ascertained a phone number for Howard Gitten of Edwards & Angell, LLP. On July 26, 2002, the Board authorized Mr. Gitten to fax a revocation and substitute power of attorney. Mr. Gitten also faxed a copy of the purchase agreement assigning the subject application to L3 Optics, Inc. from Nannovation Technologies. Accordingly, Howard M. Gitten and the law firm of Edwards & Angell, LLP are hereby substituted as counsel of record for applicant, and L3 Optics, Inc. is hereby joined as party defendant to this proceeding.¹

In view of the circumstances set forth herein, opposer's motion for default judgment is moot, and applicant is allowed until thirty days from the mailing date of this order to file an answer to the notice of opposition.

Discovery is open and the close of discovery and trial dates are set as follows:

THE PERIOD FOR DISCOVERY TO CLOSE:	March 14, 2003
30-day testimony period for party in position of plaintiff to close:	June 12, 2003
30-day testimony period for party in position of defendant to close:	August 11, 2003

¹ A copy of the revocation and power of attorney is hereby forwarded to opposer with its copy of this order. In addition, the Board notes that applicant has not recorded an assignment of the mark in the Assignment Branch of the PTO. See authorities cited in TBMP Section 512.01.

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15-day rebuttal testimony period
to close

September 25, 2003

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.